

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

**RECEIVED**  
 MAR 17 2000  
 FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )  
 )  
 Implementation of the Subscriber Carrier )  
 Selection Changes Provisions of the )  
 Telecommunications Act of 1996 )  
 )  
 PowerNet Global, Inc. and America One )  
 Communications Joint Petition for )  
 Expedited Waiver )

CC Docket No. 94-129

**JOINT PETITION FOR EXPEDITED WAIVER  
 OF COMMISSION'S RULES**

PowerNet Global, Inc. ("PNG") and America One Communications, Inc.  
 ("America One") (together, the "Petitioners"), respectfully request a limited waiver of the  
 authorization and verification requirements of the Commission's rules, 47 C.F.R. §§  
 64.1100 through 64.1190 (1999), and relevant Orders to the extent necessary to permit  
 the Petitioners to transfer America One customers to PNG's customer base without first  
 obtaining each subscriber's authorization and verification.<sup>1</sup> As demonstrated herein,  
 Petitioners fully satisfy the special circumstances required for a waiver of the  
 Commission's rules as stated in *WAIT Radio v. FCC* and grant of the instant Petition will  
 serve the public interest.<sup>2</sup> In addition, Petitioners respectfully request expedited

<sup>1</sup> The FCC's verification rules prohibit a telecommunications carrier from submitting a preferred carrier change order unless the carrier has obtained either: (1) the subscriber's written letter of agency; (2) the subscriber's electronic verification via a toll-free telephone number used exclusively to verify subscriber carrier changes; or (3) the subscriber's oral authorization to submit the preferred carrier change order from an appropriately qualified independent third party that confirms and includes appropriate verification data--e.g., the subscriber's date of birth or social security number. 47 C.F.R. § 64.1100 (1999).

<sup>2</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

No. of Copies rec'd 0+4  
 List ABCDE

**ORIGINAL**

treatment of this Petition, to allow Petitioners to effectuate the proposed transfer on or before April 15, 2000.

## **I. Background**

Petitioners both currently provide resold long distance and international telecommunications services to customers.<sup>3</sup> PNG is an Ohio corporation that is authorized to provide interstate and intrastate resold long distance service in 48 states. America One is a Delaware corporation that is authorized to provide interstate and intrastate resold long distance services in approximately 35 states and is currently providing service to approximately 20,000 customers.

Due to a change in its business plans, America One has decided to exit the intraLATA and long distance telecommunications business and discontinue its provision of wireline telecommunications service to the public. In order to provide for the continuing service to America One's customers, on February 16, 2000, America One and PNG entered into an agreement providing for the transfer of America One customer accounts to PNG.

In accordance with the Commission's prior Orders in this docket, during the week of March 13, 2000, America One and PNG sent a joint letter to the customers notifying them of the transfer of service from America One to PNG. The letter stated: (1) that customers will be assessed no charge in connection with the transfer from America One to PNG; (2) that PNG will offer rates comparable to or better than the rates offered by America One; and (3) that customers are free to change carriers if they are not satisfied

---

<sup>3</sup> PowerNet Global, Inc. d/b/a PNG Telecommunications, Inc. holds Section 214 "global" resale authority pursuant to Section 214 of the Communications Act of 1934, as amended, File No. ITC 96-557 (eff. Dec. 5, 1996); America One Communications also holds Section 214 "global" resale authority

with the service provided by PNG. In addition, the letter provided customers with a toll-free number to call with any questions concerning the transaction. A copy of this letter is attached hereto, as Exhibit A. Shortly thereafter, PNG plans to send a "welcome letter" to the affected customers with information concerning PNG's services and rates and will provide a toll-free number for customers to call with any questions.

With regard to customer complaints, PNG will work with America One to investigate and resolve any outstanding customer complaints regarding long distance or international service that may have been filed against America One.

## **II. Discussion**

The FCC has authority to waive a rule if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. *WAIT Radio*, at 1159; *Northeast Cellular Telephone Co.*, at 1166. Petitioners assert that special circumstances exist for waiver of 47 C.F.R. §§ 64.1100 through 64.1190 (1999). First, America One has decided to exit the wireline telecommunications business and will cease providing wireline telecommunications services to the public. Without the Commission's waiver, it is unlikely that PNG would be able to obtain prior authorization and verification from each customer in order to switch America One's customers to PNG by April 15, 2000. This would likely cause harm to some customers who may not understand or have the time to complete the forms necessary to authorize the switch. Customers who fail to respond would risk either losing service altogether, or paying potentially higher casual calling rates. The Commission's waiver would permit the

---

pursuant to Section 214 of the Communications Act of 1934, as amended, File No. ITC 97-112 (eff. Apr. 17, 1997).

transfer of service from America One to PNG to be seamless without loss of service to customers.

Moreover, customers will be able to maintain comparable, if not better, rates than they receive from America One. PNG will offer customers simple flat-rate plans that will be easily understandable for customers and will permit customers to maintain comparable or better rates than they received with America One.

Customers will also be adequately notified of the transfer of service, their ability to change carriers, and will be given a toll-free number to contact Petitioners with any questions regarding the transition. These letters will ensure that customers are informed of the process and that their rights are adequately protected. By granting the transfer of these customers via notification as described in this Petition, the Commission will ensure that policy goals of the carrier change rules are served but in a more efficient fashion that will permit Petitioners to transfer seamlessly America One's customers to PNG without any disruption of service.

The circumstances involved in the instant Petition are similar to those in which the Commission has previously found sufficient to justify a waiver of these rules for other carriers. Petitioners, as in the Commission's below cited Orders, are seeking to transfer a customer base pursuant to an asset purchase agreement, in order to avoid potential loss of service or higher casual calling rates for customers.<sup>4</sup>

---

<sup>4</sup> See *In re Implementation of Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, Conversent Communications, LLC, Petition for Expedited Waiver*, CC Docket No. 94-129 (rel. Dec. 21, 1999); See *In re Implementation of Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, International Exchange Communications, Inc., Request for Waiver*, CC Docket No. 94-129 (rel. Sep. 10, 1999); See *In re Implementation of Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, MCI WorldCom, Inc., Request for Waiver*, CC Docket No. 94-129 (rel. Aug. 6, 1999);

### **III. Conclusion**

Whereas, the Petitioners respectfully request the Commission to grant a limited waiver of the authorization and verification requirements of the Commission's rules, 47 C.F.R. §§ 64.1100 through 64.1190 (1999), and relevant Orders to the extent necessary to permit the Petitions to transfer America One's customers to PNG's customer base without first obtaining customers' authorization and verification. Petitioners request expedited treatment of this waiver, to allow the transfer to be completed by April 15, 2000.

Respectfully submitted,

**POWERNET GLOBAL, INC.**

A handwritten signature in cursive script, appearing to read "Dennis Packer", followed by a horizontal line.

BY: Dennis Packer, Esq.  
Lake Forest Drive  
650 WestLake Center  
Cincinnati, Ohio 45242

**AMERICA ONE COMMUNICATIONS, INC.**

A handwritten signature in cursive script, appearing to read "Pamela Arluk", followed by a horizontal line.

BY: Raidza Wick, Esq.  
Pamela Arluk, Esq.  
2650 Park Tower Drive  
4<sup>th</sup> Floor  
Vienna, VA 22180  
(703) 289-3620

March 17, 2000

## **EXHIBIT A**

Dear Customer,

Thank you for choosing America One® as your long distance provider. It has been a pleasure serving you. However, we're writing to let you know that because of a change in our business plans, your long distance service will be transferred from America One to PowerNet Global Communications.

PowerNet Global is a national, long distance provider that offers customers simple, flat-rate pricing. PowerNet Global will be offering you rates comparable to — if not lower than — what you are currently getting with America One. Along with low flat-rate pricing for long distance, PowerNet Global offers some of today's most desired services such as:

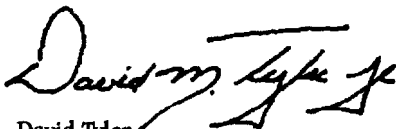
- Low-cost Internet access,
- Enhanced calling features, and
- Personal 800 number service.

PowerNet Global will be mailing an announcement outlining these services in detail to you soon.

America One and PowerNet Global will work together to ensure that your transition to PowerNet Global will be seamless, and PowerNet Global will not require you to pay any switching fees associated with the transfer. If you have any questions or concerns about this change in long distance service, you may contact America One's customer service at 1-877-481-6789.

We recognize that you are free to change carriers if you are not satisfied with the service you receive. PowerNet Global plans to provide you with value-added communications solutions and unrivaled customer support and looks forward to serving your long distance needs.

Sincerely,



David Tyler  
Vice President  
America One Communications



Bernie Stevens  
President & CEO  
PowerNet Global Communications

## CERTIFICATE OF SERVICE

I, Pamela Arluk, do hereby certify that copies of the foregoing Joint Petition for Expedited Waiver were hand-delivered to the persons listed below on this 17<sup>th</sup> day of March, 2000.

Magalie Roman Salas  
Secretary, Room TW-A325  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Robert C. Atkinson  
Deputy Chief  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554


Anita Cheng  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Glenn Reynolds  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Deena Shetler  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

Katherine Schroder  
Common Carrier Bureau  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S.W.  
Washington, DC 20554

International Transcription Services  
1231 20<sup>th</sup> Street, N.W.  
Washington, DC 20036

---

Pamela S. Arluk